

REMARKS

Claims 2-8, 26, 28-29, and 32-41 are pending in the current application. Claims 1, 23-25 and 30-31 have been canceled without prejudice. Claims 2-5, 8, 26 and 28-29 have been amended. Claims 32-41 are new.

Rejections of the Claims Under 35 U.S.C. § 112

Claims 1-8 were rejected under 35 U.S.C. § 112, first paragraph, on grounds that the specification does not provide enablement for a disc, plate or an acoustic diaphragm which moves independently of the coating chamber. The Applicants respectfully submit that a person of ordinary skill in the art would readily understand from the Applicants' disclosure how to make and use such a structure, based on Applicants' disclosure. (See, for example, paragraphs 97-107; compare paragraph 108). Nevertheless, to avoid unnecessary issues, the claim language that formed the basis for this rejection has been deleted from the claims.

Claim 28 was rejected under 35 U.S.C. § 112, second paragraph, because of differences of wording with regard to the exit and entrance. The claims have been amended to avoid this issue. Claim 28 now depends from claim 29, and claim 29 does not recite a limitation directed to an entrance or exit.

Claim 30 was rejected under 35 U.S.C. § 112, first paragraph. The Applicants respectfully submit that a person of ordinary skill in the art would readily recognize that Applicants' disclosure supports that claim. For example, the disclosure discusses the use of coatings comprising therapeutic agents and polymers. (See, for example, paragraph 24). Nevertheless, to avoid unnecessary issues, claim 30 has been canceled.

Rejections of the Claims Under 35 U.S.C. § 103(a)

Claims 26 and 30 were rejected under 35 U.S.C. § 103(a) in view of Carter and Leider et al. Claims 1, 3, and 31 were rejected under 35 U.S.C. § 103(a) in view of Garner. Claim 2 was rejected under 35 U.S.C. § 103(a) in view of Garner and Iyer et al.

No prior art rejections were made with respect to claims 2, 4-8, 28 and 29.

With respect to claims 1-8, Applicants have canceled claim 1 and have amended claims 4 and 8 to be in independent form and to incorporate certain limitations previously recited in independent claim 1. No prior art rejections were made of the previous claims 4 and 8. Those claims as currently amended are believed to be allowable over the prior art. Claims 2, 3, and 5-7 depend from claim 4 and are also believed to be allowable.

With respect to claims 28 and 29, the Examiner indicated that these claims recited allowable subject matter. Applicants have amended claim 29 to be in independent form and to incorporate certain limitations previously recited in independent claim 26, from which it depended. Claim 28 has been amended to depend from claim 29. These claims are believed to be in condition for allowance.

Claim 26 was rejected as unpatentable in view of Carter and and Leider et al. The Applicants respectfully submit that the Carter apparatus is designed to sterilize, not coat, a device. Thus, the Applicants respectfully submit that Carter does not disclose, for example, a "coating area" and a "source of therapeutic coating." Carter also does not disclose "means for forcing the medical implants to move above the screen during the coating process," as now recited in claim 26. This limitation is recited using the "means-plus-function" form authorized by 35 U.S.C. § 112, paragraph 6. The Applicants respectfully submit that with "means-plus-function" language, the recited function -- i.e., forcing medical implants to move above the

screen during the coating process -- must be actually and identically disclosed in the applied reference for a rejection to be proper. As the Federal Circuit has held, “To anticipate a claim reciting a means-plus-function limitation, the anticipatory reference must disclose the recited function identically.” Transclean Corp. v. Bridgewood Services, Inc., 290 F.3d 1364, 1372 (Fed. Cir. 2002) (emphasis added). The Carter reference does not disclose the function of “forcing the medical implants to move above the screen during the coating process.” In the Carter reference, the instrument 80 rests on the grid shelf 42 and is not forced above it. Accordingly, the Applicants respectfully submit that claim 26 is in condition for allowance. In addition, claims 32-35 depend from claim 26 and are also in condition for allowance.

New claim 36 recites an apparatus for coating a medical implant comprising a coating area sized to accept medical implants for implantation within the body of a patient, “means for supplying a therapeutic coating into the coating area,” and “means for suspending the medical implants in the coating area during the coating process.” The Applicants respectfully submit that the prior art references of record do not disclose or suggest the invention claimed in new claim 36. With respect to the Carter reference, it does not disclose any mechanism performing the function of “supplying a therapeutic coating” or any mechanism performing the function of “suspending the medical implants” in the coating area. The specification defines “suspending” as follows:

As used herein, “suspending” the medical device shall refer to a process whereby the medical device is situated within the flow of an air stream and may be moving within the air stream while unsupported by any external means. “Suspending” can also refer to vibrating a structure below the medical device at a given frequency in order to suspend the device above the vibrating structure.

Specification, paragraph 22. Examples of “suspending” medical implants using a vibrating structure are shown in Figures 6-9.

As mentioned above, in the Carter apparatus, the instrument 80 rests on the grid shelf 42. There is no structure that “suspends” the instrument 80 over the grid shelf 42.

The Garner reference similarly does not disclose or suggest the subject matter of claim 36. There is no structure in Garner that performs the function of “supplying a therapeutic coating into the coating area.” The Garner device shows supplying a powder filler for electrical cables. The powder filler is not a “therapeutic coating.” Moreover, there would be no reason for coating the electrical cables of Garner with a “therapeutic coating.” In addition, the Garner device does not have structure “for suspending the medical implants.” First, there are no medical implants at all in Garner. Second, there is no “suspending” of medical implants suggested.

The Applicants have carefully considered the Examiner’s rejections, and the Applicants respectfully submit that, in view of the above amendments and remarks, all claims are now in condition for allowance.

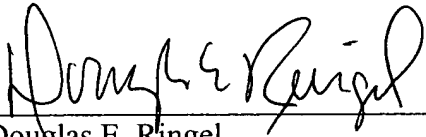
Conclusion

On the basis of the foregoing, the Applicants would like to respectfully request that the Examiner give due consideration to the claims as amended above and the accompanying remarks. As discussed above, the Applicant submits that all claims are now in condition for allowance. Should any questions arise, the Examiner is invited to contact the undersigned at (202) 220-4225.

The Commissioner is hereby authorized to charge any fees and credit any overpayments associated with this filing to Kenyon & Kenyon, Deposit Account No. 11-0600.

Respectfully submitted,

Dated: May 9, 2005



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